

(b) *“Converted” institutions.* In the case of each of the following SAIF members, the volume of SAIF-insured deposits used to determine the institution’s SAIF assessment base on March 31, 1995, shall be reduced by 20 percent:

(1) A federal savings association:

(i) That had deposits subject to assessment by the SAIF which did not exceed \$4,000,000,000, as of March 31, 1995; and

(ii) That had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a state savings bank, the deposits of which were insured by the Corporation prior to August 9, 1989, which institution converted to a federal savings association pursuant to section 5(j) of the Home Owners’ Loan Act, 12 USC 1464(j), prior to January 1, 1985;

(2) A SAIF-member state depository institution that had been a state savings bank prior to October 15, 1982, and was a federal savings association on August 9, 1989;

(3) An insured bank that:

(i) Was established de novo in order to acquire the deposits of a savings association in default or in danger of default;

(ii) Did not open for business before acquiring the deposits of such savings association; and

(iii) Was a SAIF member as of the date of enactment of the Deposit Insurance Funds Act of 1996; and

(4) An insured bank that:

(i) Resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the FDI Act; and

(ii) Had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.

(c) *Oakar banks.* The special assessment shall be computed with reference to that portion of an institution’s SAIF assessment base for March 31, 1995, which is equal to 80 percent of the institution’s adjusted attributable deposit amount for that date, if the institution is a BIF member that, as of June 30, 1995:

(1) Had an adjusted attributable deposit amount that was less than 50 percent of its total domestic deposits; or

(2)(i) Had an adjusted attributable deposit amount equal to less than 75 percent of its total assessable deposits;

(ii) Had total assessable deposits greater than \$5,000,000,000; and

(iii) Was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the BIF greater than the aggregate amount of deposits insured or treated as insured by the SAIF.

§327.43 Exemptions from the special assessment.

(a) *Mandatory exemptions.* The following institutions are exempt from the special assessment:

(1) An institution that was in existence on October 1, 1995, and held no SAIF-assessable deposits prior to January 1, 1993. For this purpose, an institution shall be deemed to have held SAIF-assessable deposits prior to January 1, 1993, if:

(i) The institution directly held SAIF-assessable insured deposits prior to that date; or

(ii) The institution succeeded to, acquired, purchased, or otherwise held any SAIF-assessable deposits as of September 30, 1996, that were SAIF-assessable deposits prior to January 1, 1993;

(2) A federal savings bank that:

(i) Was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and

(ii) Received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; and

(3) A savings association, the deposits of which are insured by the SAIF, that:

(i) Prior to January 1, 1987, was chartered as a federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and

(ii) As of the date of that transaction, had assets of less than \$150,000,000.

(b) *Weak institutions.* If an institution meets any criterion for designation as “weak” under the guidelines set forth in appendix A of this subpart, the institution shall generally be exempt from the special assessment, unless the exemption would not materially reduce risk to the SAIF. Authority to determine whether an institution meets any such criterion, authority to issue orders exempting “weak” institutions, authority to determine whether the risk to the SAIF would not be materially reduced if an institution qualifying for exemption as a “weak” institution were nevertheless allowed to pay the special assessment, and authority to determine whether an institution rated 4 or 5 by its appropriate federal banking agency would present a substantial risk of loss to the SAIF unless the institution were exempt from the special assessment, are delegated to the Director of the Division of Supervision.

(c) *Semiannual assessments payable to the SAIF—(1) Special rate schedule.* Except as provided in paragraph (c)(2) of this section, an institution that is exempt from the special assessment pursuant to paragraph (a) or (b) of this section shall pay regular semiannual assessments to the SAIF from the first semiannual period of 1996 through the second semiannual period of 1999 according to the schedule of rates specified in §327.9(d)(1) as in effect for SAIF members on June 30, 1995.

(2) *Termination of special rate schedule.* An institution that makes a pro-rata payment of the special assessment shall cease to be subject to paragraph (c)(1) of this section. The pro-rata payment must be equal to the following product: 16.7 percent of the amount the institution would have owed for the special assessment, multiplied by the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

§327.44 Hardship exception.

(a) *Applicability.* This section applies to an insured depository institution if:

(1) The institution, or a depository institution holding company that con-

trols the institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and

(2) The Corporation has determined that payment of the special assessment in accordance with the provisions of §327.41 would pose a significant risk of causing the depository institution or its depository institution holding company to default on or to violate any term or covenant specified in paragraph (a)(1) of this section.

(b) *Election.* An insured depository institution may elect, with the prior approval of the Corporation, to pay the special assessment prescribed by the Deposit Insurance Funds Act of 1996 in two installments in accordance with the provisions of this section. In deciding whether to grant or withhold approval, the Corporation will consider the entire circumstances of the proposed election, including but not limited to the election’s effects on the institution, on the SAIF, and on the public interest.

(c) *Procedures—(1) Initial assessment—(i) Date.* An institution that makes the election specified in paragraph (b) of this section shall pay the initial installment of the special assessment to the Corporation on November 27, 1996.

(ii) *Amount.* The initial installment shall be equal to 50 percent of the amount that the institution would otherwise be required to pay on November 27, 1996, in accordance with §327.41.

(iii) *Payment procedures.* The procedures set forth in §327.41(e) shall apply to the payment of the initial installment.

(2) *Second installment—(i) Date.* An institution that makes the election specified in paragraph (b) of this section shall pay a second installment to the Corporation on the regular payment date for the second quarterly payment for the first semiannual period of 1997.

(ii) *Amount.* The second installment shall be an amount computed as follows: the SAIF assessment base of the institution on December 31, 1996, multiplied by the rate specified in §327.41(b), multiplied by 51 percent.

(iii) *Payment procedures.* The procedures set forth in §327.41(e) shall apply to the payment of the second installment, except that any reference to the